

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW JERSEY

3 CIVIL ACTION NUMBER:

4 IN RE: VALSARTAN PRODUCTS  
5 LIABILITY LITIGATION

19-md-02875-RBK-KMW

6 CASE MANAGEMENT CONFERENCE  
via ZOOM VIDEOCONFERENCE

7 Mitchell H. Cohen Building & U.S. Courthouse  
8 4th & Cooper Streets  
Camden, New Jersey 08101  
9 April 13, 2022  
Commencing at 4:04 p.m.

10 **B E F O R E:**

11 THE HONORABLE THOMAS I. VANASKIE (RET.)  
SPECIAL MASTER

12 **A P P E A R A N C E S:**

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23 Proceedings recorded by mechanical stenography; transcript  
24 produced by computer-aided transcription.  
25

**A P P E A R A N C E S (Continued) :**

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**ALSO PRESENT:**

LORETTA SMITH, ESQUIRE

Judicial Law Clerk to The Honorable Robert B. Kugler

Larry MacStravic, Courtroom Deputy

1 (PROCEEDINGS held via Zoom before The Honorable The  
2 Honorable Thomas I. Vanaskie (Ret.), Special Master at  
3 4:04 p.m.)

4 THE COURT: Good afternoon, everyone. We'll bring  
5 this session to order, I guess. We'll be a little formal  
6 here. It shouldn't be a very long session.

7 Who will be addressing this matter on behalf of the  
8 plaintiffs?

9 MR. SLATER: Good afternoon. Adam Slater for  
10 plaintiffs.

11 THE COURT: Good afternoon, Mr. Slater.

12 And who will be speaking on behalf of the defense?

13 MR. REEFER: Good afternoon, Judge. This is  
14 Jason Reefer. It depends on the nature of the inquiry, but  
15 generally speaking, I can answer some preliminary questions  
16 depending on how the conversation goes.

17 THE COURT: All right. Very well. And then if  
18 anybody else needs to weigh in, just come on in on the call.

19 Now, the protocol here is to silence your microphones  
20 so that we don't get a lot of interference, and one person  
21 speaks at a time.

22 And I know, Mr. Slater, you're well known to our  
23 court reporter, I am sure.

24 And, Mr. Reefer, identify yourself when you speak.

25 Anybody else should identify themselves before being

1 heard.

2 And so, I've read the agenda letter and the  
3 attachments. And I'll ask Mr. Slater, what are you  
4 requesting? Are you requesting that the counsel be directed  
5 to meet and confer on these defend and indemnify agreements?  
6 Or what exactly are you asking?

7 MR. SLATER: We're asking for exactly that,  
8 Your Honor, to be completed by April 30th. We think that that  
9 gives everybody enough time. We've already had time, and some  
10 of the defendants have been very cooperative and have already  
11 met and conferred with us. And we just would like to have the  
12 deadlines that we can finish this process. And we don't  
13 really understand why there would be any hesitancy to do it.  
14 It's obviously very important. And I know Judge Kugler  
15 confirmed that, I know that Your Honor's confirmed that. So  
16 we would just like to complete the process by the end of the  
17 month, please.

18 THE COURT: All right. Mr. Reefer.

19 MR. REEFER: Thank you, Judge. Jason Reefer for the  
20 defendants.

21 Judge, I think what the letters reflect is that there  
22 has been a general willingness among the defendants to meet  
23 and confer. The process was somewhat delayed from the first  
24 time it was raised before the Court. I think it was back in  
25 February. I think plaintiffs then followed up with a letter

1 in mid-March. And as the plaintiffs' letter suggests, the  
2 manufacturer defendants have exhibited an intention of meeting  
3 and conferring and responding to the plaintiffs' requests.  
4 And so I really don't think that there's anything to be done  
5 at this time.

6 I think the point that some of the downstream  
7 defendants have made is that they've already provided fulsome  
8 discovery responses and deposition testimony, that much of the  
9 information that plaintiffs seek should potentially come from  
10 the manufacturer defendants, and therefore, what should happen  
11 is the manufacturer defendants should meet and confer with the  
12 plaintiffs, and to the extent there's any additional  
13 outstanding issues, then they can be taken up at that time. I  
14 don't think that there's any need for Court intervention or a  
15 court order requiring any deadlines at this time.

16 MR. SLATER: Your Honor, I think we do need a  
17 deadline only because of the fact that you even got a letter  
18 back with any questions about this process. We obviously need  
19 to speak to both sides of the supply chain to make sure  
20 there's no differences in interpretation or variations in  
21 understanding.

22 And what's very important to us is not only to know  
23 what was stated during discovery but to know what the current  
24 status is because that status quo could have changed. There  
25 could be one party in the supply chain that thinks there's an

1 indemnification obligation and the other party doesn't believe  
2 there is one. There may be disputes. There may be new deals  
3 that have been made in the last month. Whatever the case may  
4 be, it's critical for us to understand that as we embark on  
5 the resolution process that Judge Kugler has ordered us into  
6 with the Special Master.

7 So, again, we would just ask a deadline of April 30th  
8 to complete the meet-and-confer process.

9 THE COURT: Mr. Slater, are you able to identify any  
10 defendants with whom you've completed the meet-and-confer  
11 process?

12 MR. SLATER: I think that it sounds like we're done  
13 with Teva. I believe from talking with Mr. Williamson and  
14 some other counsel it looks like that process was done, and  
15 from reading some of the emails. I know that there's been  
16 some other discussions. I don't want to say right now that  
17 it's over, because I'm not in each of those meetings.

18 But Mr. Reefer said the manufacturers haven't seemed  
19 to be pushing back on meeting and conferring. It's more the  
20 downstream defendants. And that's something that we need to  
21 tie up also. So there's certainly no burden to anybody to  
22 have these discussions.

23 THE COURT: All right.

24 MR. REEFER: Right, Judge. And my response, again,  
25 is I don't think that there's any realistic probability that

1 the manufacturers will have information that is inconsistent  
2 with the information in the possession of the downstream  
3 defendants. I think the gist of plaintiffs' requests  
4 ultimately go up the food chain to the manufacturers. And so  
5 if there's additional information that has been developed or  
6 updates that need to be given with respect to the status of  
7 indemnification demands, who better than to provide it than  
8 the manufacturers?

9 THE COURT: And, Mr. Reefer, whose interests do you  
10 represent in this matter? I'm sorry, I'm not completely  
11 familiar with this.

12 MR. REEFER: That's okay, Judge. I'm actually  
13 flattered that you don't see my face too often. It means that  
14 I haven't been called into the, you know, principal's office  
15 too often. But my office represents the Mylan defendants,  
16 Your Honor.

17 THE COURT: Okay. All right. Does anybody else want  
18 to be heard on this issue?

19 I will say, I am inclined to grant the requested  
20 relief to direct that you complete a meet-and-confer process  
21 with respect to defend and indemnification agreements by  
22 April 30th, just so that there is a deadline and something  
23 that we can hold the parties' feet to the fire for.

24 But does anybody else have a strong objection, or am  
25 I missing something here?

1 MR. GEOPPINGER: Your Honor, if I may, Jeff  
2 Geoppinger of the wholesalers.

3 I wouldn't say I have a strong objection, but to echo  
4 Mr. Reefer's comments, you know, it seems that the process is  
5 proceeding with the manufacturers. I looked at the dates in  
6 the letter. It looks like it will get done with them by the  
7 30th. A lot of the information that the plaintiffs would  
8 be -- it would be a lot easier for us if they finish with the  
9 manufacturers first so they can, you know, have pointed  
10 questions for us for what they don't have as opposed to us  
11 regurgitating information that they already got, especially if  
12 we're dealing with, you know, different -- obviously I know  
13 the plaintiffs, they have a lot of ground to cover, so they  
14 have different teams and whatnot.

15 So the extent, you know, the Court is thinking about  
16 a deadline, I would perhaps suggest that we make that for  
17 completion of the manufacturers meet and confers, which seem  
18 to be already on the schedule, by the end of the month, and  
19 then we can bring out -- we can deal with the downstream  
20 defendants after that.

21 MS. RICHER: And, Your Honor, this is Kristen Richer  
22 for the retail pharmacy defendants. I would just echo  
23 Mr. Geoppinger's statements on that. I think that that's a  
24 very orderly way to proceed and makes a lot of sense here.  
25 And to the extent they feel like they need to ask specific



1 questions to specific retailers, they could do so after  
2 they've actually conferred with the manufacturers.

3 MR. SLATER: I can tell you --

4 THE COURT: Thank you, Ms. Richer.

5 Go ahead, Mr. Slater.

6 MR. SLATER: Yeah, we do need to speak to all levels  
7 of the supply chain. I am honestly so surprised at this  
8 pushback. I don't know why these parties will not just have a  
9 meet and confer, confirm the information, update us on whether  
10 there's any disputes or whether it's status quo. Some of  
11 these calls will be very quick, but at least we'll have  
12 verified on all levels, including whether the wholesalers are  
13 indemnifying any of the retailers since they stand between the  
14 manufacturers and the retailers.

15 THE COURT: Anybody else want to be heard on this?

16 All right. I am going to direct that the  
17 meet-and-confer process for all levels of defendants be  
18 completed by April 30th.

19 It's important that this be completed. The letter  
20 that went out that reignited this issue is dated March 17th.  
21 So I think that's plenty of time to have completed the  
22 process. Obviously, if you run into scheduling problems and  
23 need to go beyond April 30th, that can be accommodated, but  
24 right now the goal is and the target is April 30th.

25 I'd ask, Mr. Slater, if you would submit to me a

1 proposed order to issue in the matter reflecting the fact that  
2 the meet and confer on these agreements is to be completed.

3 And the other aspect of it, whatever disputes there  
4 may be out there. There was a second component, a question of  
5 litigation, arbitration, mediations between and among any  
6 defendants concerning contaminated Valsartan, those meet and  
7 confers should be completed by April 30th. All right?

8 MR. SLATER: Thank you. I'll do that, Your Honor.  
9 You'll have it by tomorrow.

10 THE COURT: Is there anything else we need to discuss  
11 today?

12 MR. SLATER: Nothing for plaintiffs.

13 MR. REEFER: I don't believe so, Judge, for  
14 defendants.

15 THE COURT: Thank you, Mr. Reefer.

16 All right. We are concluded then. Thank you very  
17 much. Take care.

18 (Proceedings concluded at 4:14 p.m.)

19 - - -

20 I certify that the foregoing is a correct transcript  
21 from the record of proceedings in the above-entitled matter.

22

23 /S/ Ann Marie Mitchell, CCR, CRR, RDR, RMR  
24 Court Reporter/Transcriber

25 14th day of April, 2022  
Date

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